

ESTTA Tracking number: **ESTTA332844**Filing date: **02/18/2010**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Fitness Motivators LLC		
Entity	LLC	Citizenship	Michigan
Address	25712 Springbrook Drive Farmington Hills, MI 48336 UNITED STATES		

Correspondence information	Donna Truss President Fitness Motivators LLC 25712 Springbrook Drive Farmington Hills, MI 48336 UNITED STATES fitdiva@msn.com Phone:248-909-5253
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**Registration Subject to Cancellation**

Registration No	3432382	Registration date	05/20/2008
Registrant	Adkins, Paul D. 1837 12th St. N.W. Washington, DC 20009 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 041. First Use: 2007/10/13 First Use In Commerce: 2008/01/13 All goods and services in the class are cancelled, namely: Physical fitness consultation; Physical fitness conditioning classes; Physical fitness instruction; Providing assistance, personal training and physical fitness consultation to corporate clients to help their employees make physical fitness, strength, conditioning, and exercise alterations in their daily living; Providing assistance, personal training and physical consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvements in their daily living; Providing fitness and exercise facilities
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**Grounds for Cancellation**

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Cancellation under Section 1(d) of the Lanham Act

Related Proceedings	Fitness Motivators LLC is a limited liability company organized and existing under the laws of the State of Michigan and hereby believes that it is being damaged and will continue to be damaged by the registration of FITNESS MOTIVATORS (the "Mark"). Respondent began using the FITNESS MOTIVATORS mark in 2008. Petitioner has used FITNESS MOTIVATORS since 1988, prior to the effective filing date of the subject Registration under
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	Section 1(b) of the Lanhan Act and prior to the alleged first use date alleged therein.
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### Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	FITNESS MOTIVATORS		
Goods/Services	Physical fitness consultation; Physical fitness conditioning classes; Physical fitness instruction; Providing assistance, personal training and physical fitness consultation to corporate clients to help their employees make physical fitness, strength, conditioning, and exercise alterations in their daily living; Providing assistance, personal training and physical consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvements in their daily living; Providing fitness and exercise facilities.		

Attachments	DONNA TRUSS-Petition.pdf ( 23 pages )(6597380 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Donna Truss/
Name	Donna Truss
Date	02/18/2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark **Registration No. 3,432,382**  
For the mark **Fitness Motivators**  
Date registered **May 20, 2008**

**Fitness Motivators, LLC**  
25712 Springbrook Drive,  
Farmington Hills, MI 48336,

**Registration No. 3,432,382**

**Petitioner.**

**Opposition No. \_\_\_\_\_**

**- vs. -**

**Cancellation No. \_\_\_\_\_**

**Paul D. Adkins**  
1837 12<sup>th</sup> St. NW  
Washington DC 20009

**Respondent.**

\_\_\_\_\_/

**PETITION TO CANCEL**

Fitness Motivators, LLC is a limited liability company organized and existing under the laws of the State of Michigan, with an address at 25712 Springbrook Drive, Farmington Hills, Michigan 48336 (hereinafter "Petitioner"), and hereby believes that it is being damaged and will continue to be damaged by the registration of FITNESS MOTIVATORS (the "Mark"), as shown in Registration No. 3,432,382 filed by Paul D. Adkins, an individual with an address at 1837 12<sup>th</sup> St. NW, Washington DC 20009 (hereinafter "Respondent"), on May 11, 2007 under Section 1(b) of the Lanham Act claiming a date of first use in commerce of January 13, 2008.

Petitioner hereby claims the grounds for cancellation are as follows:

1. Upon information and belief, Respondent began using the FITNESS MOTIVATORS mark in connection with the registered services, "Physical fitness consultation; Physical fitness conditioning classes; Physical fitness instruction; Providing assistance, personal training and physical fitness consultation to corporate clients to help their employees make physical fitness, strength, conditioning, and exercise alterations in their daily living; Providing assistance, personal training and physical consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvements in their daily living; Providing fitness and exercise facilities," in 2008. (Please see Exhibit A attached hereto and '382 Registration).
2. Petitioner, its predecessor in interest, or a related company, has actual use or use analogous to trademark use of the FITNESS MOTIVATORS mark in connection with these same services since a date prior to the effective filing date of the subject Registration under Section 1(b) of the Lanham Act and prior to the alleged first use date alleged therein. (Please see Exhibit B and C attached hereto).
3. Through its continuous use or analogous use of the FITNESS MOTIVATORS Mark since prior to the effective filing date and alleged first use date of the subject Registration and by virtue of the tremendous success of the goods and services provided under this mark, Petitioner

has developed extensive goodwill as well as protectable common law trademark and service mark rights.

4. Petitioner, its predecessor in interest, or related company has had significant exposure in the media since the early 1990s, and has been featured on the News, newspapers, MTV, several fundraisers events, own award-winning Fitness Motivators' cable shows, and more. (Please see Exhibits D-J attached hereto);
5. Petitioner has operated a website at [www.fitnessmotivators.com](http://www.fitnessmotivators.com) since 2002. (See Exhibit M).
6. When Respondent filed his trademark application for the Mark, he verified that "to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive."
7. Respondent knew or should have known about Petitioner's use of and rights to the FITNESS MOTIVATORS mark for the same services when he signed the Application. Respondent has therefore committed fraud on the Trademark Office.
8. Petitioner has used the Mark on the same services since long prior to Respondent's effective filing date under Section 1(b) of the Lanham Act.

9. The registration of the Mark by Respondent is damaging Petitioner. Respondent has used the Registration in attempts to shut down Petitioner's website and otherwise interfere with its lawful business and use of the FITNESS MOTIVATORS mark (See Exhibits K-L).

Count I - Cancellation Under Section 1(d) of the Lanham Act

10. Respondent incorporates the allegations of paragraphs 1-9 above.
11. Petitioner asserts that the Registered Mark so resembles Petitioner's Mark as to be likely, when used on or in connection with the goods and services of the Registrant, to cause confusion, or to cause mistake, or to deceive as to the source or origin of Registrant's services, or to cause the public to assume erroneously that Registrant's services are in some way connected with and/or sponsored by or affiliated with Petitioner, within the meaning of Section 2(d) of the Lanham Act, which would injure and damage the Petitioner and the goodwill and reputation it has established in the Petitioner's Mark.
12. Since Petitioner has used the FITNESS MOTIVATORS mark since long prior (1988) to Respondent's filing of the subject registration and first use date alleged therefore, the Registration should be cancelled.

Count II - Cancellation Based on Fraud on the Trademark Office

13. Petition incorporates the allegations of Paragraphs 1-12 above.

14. Respondent knew or should have known of Petitioner's use of and rights to the FITNESS MOTIVATORS mark prior to verifying to the Trademark Office that that "to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive." Therefore, Respondent committed fraud on the Trademark Office and the registration should be cancelled.

**THEREFORE**, for the reasons set forth above, Petitioner hereby requests that this matter be resolved by cancelling Respondent's Registration.

Respectfully submitted,



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**Donna Truss, President**  
**Fitness Motivators, LLC**  
25712 Springbrook Drive  
Farmington Hills, MI 48336

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark **Registration No. 3,432,382**  
For the mark **Fitness Motivators**  
Date registered **May 20, 2008**

**Fitness Motivators, LLC**  
25712 Springbrook Drive,  
Farmington Hills, MI 48336,

**Registration No. 3,432,382**

**Petitioner.**

**Opposition No. \_\_\_\_\_**

**- vs. -**

**Cancellation No. \_\_\_\_\_**

**Paul D. Adkins**  
1837 12<sup>th</sup> St. NW  
Washington DC 20009

**Respondent.**

\_\_\_\_\_/

**EXHIBITS**

1. Exhibit A - Snapshot of Respondent, Paul Adkins' website;
2. Exhibit B - Documentation of Assumed Name filed by Petitioner  
Dated March 12, 1990;
3. Exhibit C - Documentation of Petitioner's Fitness Motivators,  
LLC Dated April 21, 2004;
4. Exhibit D - Documentation of Petitioner's Poor Man Patent Dated  
April 6, 1990;
5. Exhibit E - Documentation of Petitioner's Publication Dated  
August 15, 1991;
6. Exhibit F - Documentation of Petitioner's Publication Dated  
January 16, 1992;



- 7. Exhibit G - Documentation of Petitioner's Publication Dated March 19, 1991;
- 8. Exhibit H - Documentation of Petitioner's Publication Dated January 1, 1998;
- 9. Exhibit I - Documentation of Petitioner's Publication Dated June 10, 2004;
- 10. Exhibit J - Documentation of Petitioner's Publication Dated January 21, 2010;
- 11. Exhibit K - Documentation of Petitioner's Attorney Emails to Respondent, Paul Adkins Dated February 12-15, 2010;
- 12. Exhibit L - Documentation of Petitioner's Attorney Email to Go Daddy February 16, 2010;
- 13. Exhibit M - Snapshot of Petitioner's Fitness Motivators website;

Respectfully submitted,



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**Donna Truss**, President  
Fitness Motivators, LLC  
25712 Springbrook Drive  
Farmington Hills, MI 48336

## Snapshot of Paul Adkins Website Home Page



Home	I Am Your Motivation	Testimonies	The Harsh Reality	Mythbusters	Contact
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### FITNESS MOTIVATORS

Are you ready for a lifestyle change?? Are you ready to make the mental determination to live a healthy and fit lifestyle?? Let Fitness Motivators be your guide. We pride ourselves in setting the standard in physical and mental health and fitness. Founded in January 2008, we are already the fastest growing company involving personal training within the Washington, D.C. Metropolitan area. Please take the time to look over this site to get to know us and what we stand for. Please don't hesitate to contact us for all your physical fitness needs. Thanks so much for visiting!!!

Paul Adkins, AAI and IFPA Certified Personal Trainer

Fitness Motivators LLC

Remember...If you don't have WILL, you're in the WAY!!!



**EXHIBIT A**

WAY

CERTIFICATE—CONDUCTING BUSINESS UNDER AN ASSUMED NAME

Form E-16 (11-75)

STATE OF MICHIGAN }  
COUNTY OF WAYNE } ss.

I, 499547, do hereby certify in pursuance of Section 445.1 to 445.5 inclusive C. L. 1948  
that, 20.00, now intend to own, conduct or transact business or maintain an office or place  
in the CITY of HOUSE ADDRESS Highland Michigan, under  
the name of FITNESS MOTIVATORS  
at address 1045 DUNLEAVY DRIVE ZIP 48031  
do further certify that the true and real full name or names of the person or  
persons, conducting, transacting the same together with the Post Office address of each is  
as follows, viz.:

NAME	RESIDENCE ADDRESS	CITY OR VILLAGE
<u>DONNA MARIE TRUSS</u>	<u>1045 DUNLEAVY DR</u>	<u>HIGHLAND</u>

In Witness Whereof, I have this 17th day of February  
A. D., 19 90, made and signed this certificate.

\*NOTE—This Certificate Expires 5 Years  
From The Date of Filing With  
The County Clerk

STATE OF MICHIGAN }  
COUNTY OF WAYNE } ss.

On this 17th day of FEBRUARY A. D., 19 90, before me personally  
appeared DONNA MARIE TRUSS  
who being duly sworn says, She is (are) the person (s) described in and who executed the  
foregoing instrument for the purpose therein stated.

Patricia G. Carroll  
Notary Public, Wayne County, Michigan

My Commission expires 2-27-91  
Notary Public, Wayne County, MI  
My Commission Expires 2-27-91

STATE OF MICHIGAN }  
COUNTY OF WAYNE } ss.

I, JAMES R. KILLEEN, County Clerk, do hereby certify that I have compared the foregoing  
copy of Certificate of Conducting Business Under An Assumed Name with the original and that it  
is a true and correct transcript therefrom, and of the whole of such original Certificate of Conduct-  
ing Business Under An Assumed Name.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the Circuit Court of  
said County of Wayne, at Detroit, this \_\_\_\_\_ day of \_\_\_\_\_, A. D., 19 \_\_\_\_\_

MAR 12 1990

County Clerk

Deputy Clerk



We have other assumed  
name documents that are  
dated earlier. Our assume  
name registrations are  
current

**EXHIBIT B**

**MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH  
BUREAU OF COMMERCIAL SERVICES**

Date Received (FOR BUREAU USE ONLY)

This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.

**Fitness Motivators LLC  
Document**

Name Donna Truss		
Address 1045 Dunleavy Drive		
City Highland	State MI	Zip Code 48356-2164

Trans Info: 1 9311906-1 04/14/04  
Enk#: 9641 Amt: \$50.00  
ID: D M TRUSS

**FILED**

APR 21 2004

EFFECTIVE DATE:

Administrator  
BUREAU OF COMMERCIAL SERVICES

Document will be returned to the name and address you enter above. If left blank document will be mailed to the registered office.

**ARTICLES OF ORGANIZATION**

**For use by Domestic Limited Liability Companies**

(Please read information and instructions on last page)

Pursuant to the provisions of Act 23, Public Acts of 1993, the undersigned execute the following Articles:

B7243Q

**ARTICLE I**

The name of the limited liability company is: Fitness Motivators, LLC

**ARTICLE II**

The purpose or purposes for which the limited liability company is formed is to engage in any activity within the purposes for which a limited liability company may be formed under the Limited Liability Company Act of Michigan.

All Purpose

**ARTICLE III**

The duration of the limited liability company if other than perpetual is:

**ARTICLE IV**

1. The street address of the location of the registered office is:

1045 Dunleavy Drive Highland Michigan 48356-2164  
(Street Address) (City) (ZIP Code)

2. The mailing address of the registered office if different than above:

1045 Dunleavy Drive Highland Michigan 48356-2164  
(Street Address or P.O. Box) (City) (ZIP Code)

3. The name of the resident agent at the registered office is: Donna Truss

**ARTICLE V** (Insert any desired additional provision authorized by the Act; attach additional pages if needed.)

Signed this 12 day of April, 2004

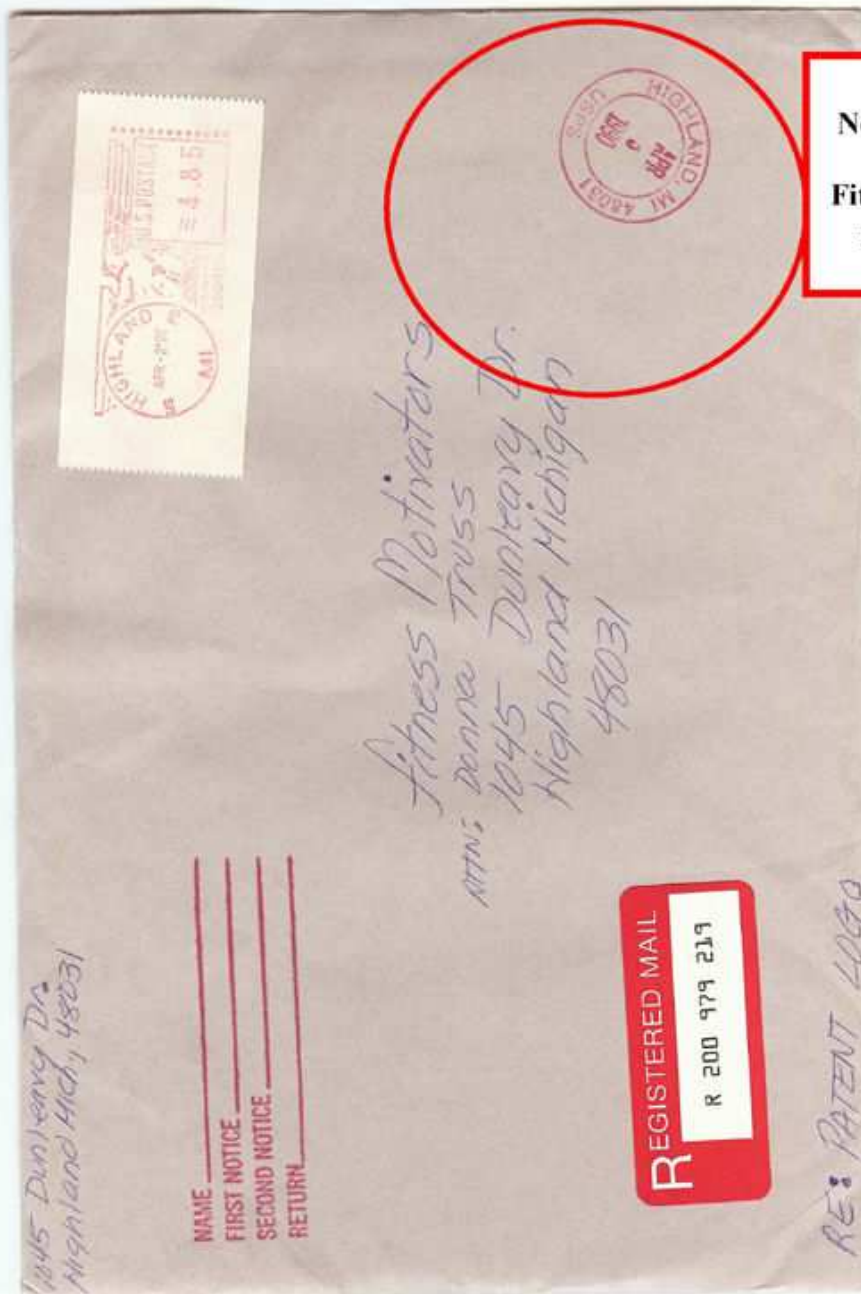
By Donna Truss  
(Signature(s) of Organizer(s))

Donna Truss, Fitness Motivators

(Type or Print Name(s) of Organizer(s))

**EXHIBIT C**





**Poor Man Patent**  
Not sure if this is a myth.  
But this is proof that  
Fitness Motivators existed  
years ago. This is still  
sealed.

**EXHIBIT D**

# ator actor helps to shape

*"I describe my classes as low impact, high energy workouts. We do lots of body oring to get you from head to toe."*

Donna Truss  
aerobics instructor

The Highland resident said men who have never liked exercise before realize fitness can be enjoyable. Some even end up loving to help out mothers with small children. Truss will offer baby sitting cost of \$1.25 per child during the training class.

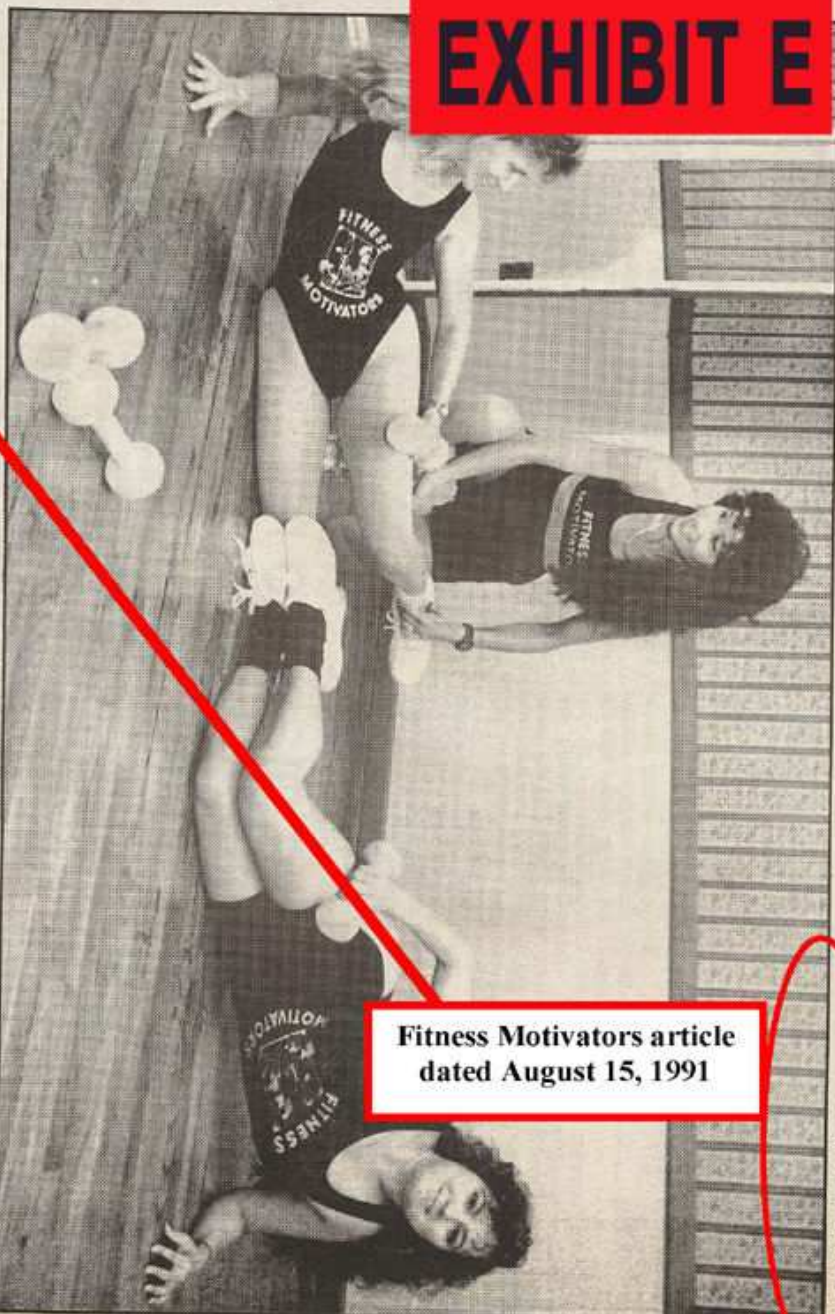
Cost for the classes is \$49 for 20 sessions or \$60 for an unlimited number of classes during the 10-week period. Those who don't pre-register still attend classes at a walk-in of \$3.50 per class.

Truss maintains lots of variety in classes, but tries to stay away from high-impact workouts.

Keep it at a level where we don't exhaust clients," explained Truss. "But we do challenge them. I make my classes as low impact, high energy workouts. We do lots of toning to get you from head to toe."

The instructor said she intermingles five to 10 minutes of body toning with aerobic routines. "We do both upper body and lower body toning," she explained. "We use hand weights because all are weak in the upper body." Through the fitness instructor is

## EXHIBIT E



Donna Truss (center) gives assistants (from left) Debbie Darnell and Debra Lawson workout tips

Photo by CHARLE CORTEZ

full of drive and ambition. Truss said her husband, Scott, was the actual motivator behind Fitness Motivators. The owner of Mr. Radialtor in Redford Township, Scott has expanded to four other locations.

He knew Donna had a good head for business from working together at Mr. Radialtor and felt she knew enough about fitness to start a fitness program.

"He said I was an Indian and asked me if I wouldn't rather be a chief," Truss said she loves people and is drawn to make it in life. "She believes that's the key to her success. The licensed instructor said she grew

up in Detroit where life was not always easy. She and her twin sister Debbie were known as Double Trouble. That nickname actually helped them avoid scrapes with other girls in school.

"If you have a goal or a dream no matter where it's at, you've got to make it happen."

Truss is not afraid to try new ventures. At age 18 the Detroit Community Center allowed her to develop a fitness program. She's also entered the Mrs. Michigan USA contest and tried her hand at being a professional model. She said her ethnic background seemed to hinder her success as a model.

"I either didn't look Chinese enough for them or I looked too Chinese," she explained.

Full of ambition, energy and spirit, Truss has taken on another challenge. As a member of the Highland Township Fire Department, she goes on medical runs. She is CPR certified and is currently taking the first responders course.

"It's really rewarding knowing you can be there to help people — to help save a life."

She said her husband supports this endeavor.

"He knew I would be capable," said Truss. "He's a little worried about safety. Once I get more training I may

find I like the actual firefighting." Truss said she believes in maintaining a personal relationship with the students in her classes.

"If they miss a week I'll get on the phone and call them," explained Truss. "I see a lot of girls in my classes making friends and that's exciting."

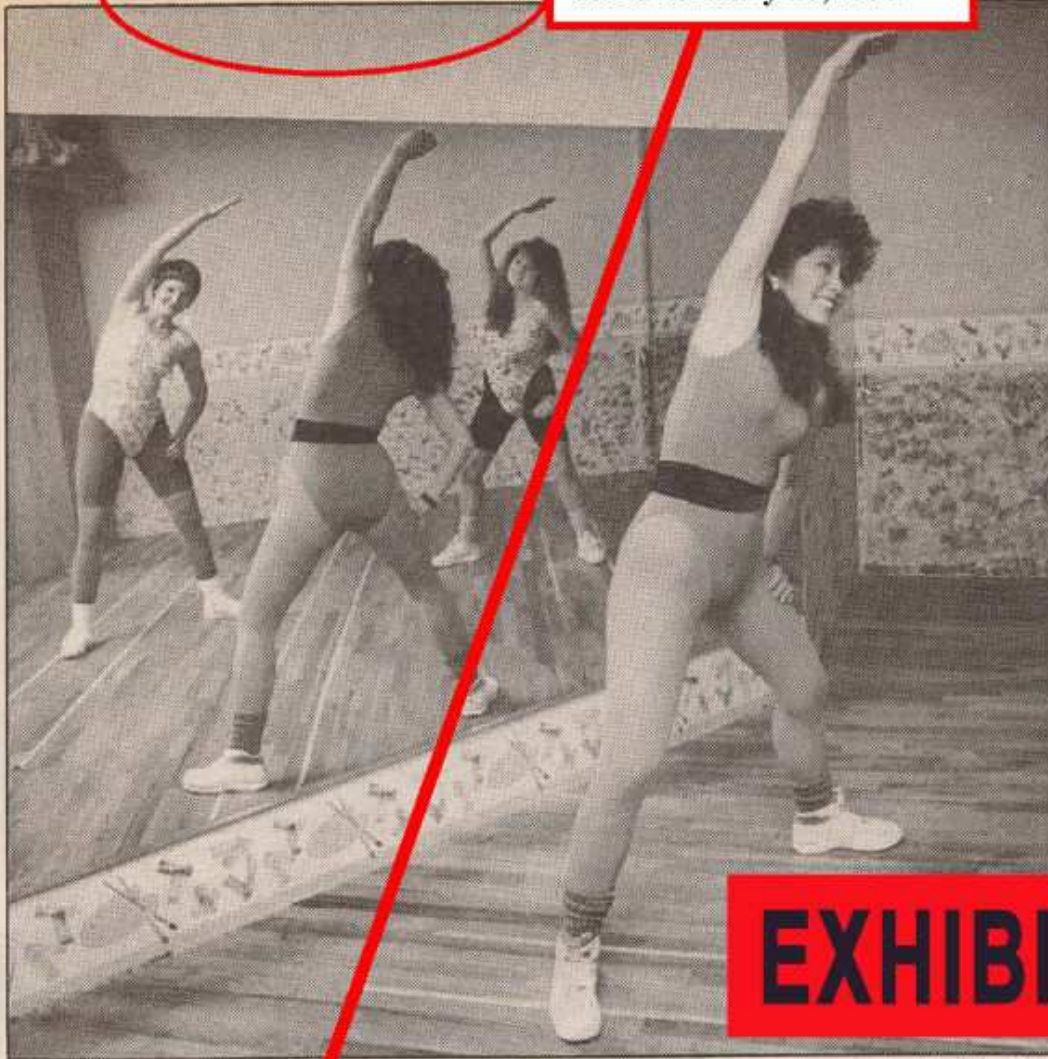
That personal touch seems to have paid off for Truss. Last year the fees she charged covered her overhead expenses. Her goal this year is to pay the bills and make a little profit.

"A lot of clients have stuck with me since the bowling alley," explained Truss. "This is not just another company. I'm not doing it just for the money."

Fitness Motivators article dated August 15, 1991



Fitness Motivators article  
dated January 16, 1992



**EXHIBIT F**

Photo by HAL GOULD

Instructor Donna Truss (front) of Fitness Motivators completes a workout with Cindee Robert (left) and Debra Lawson (right). The business helped the needy this Christmas.

## Fitness Motivators helps needy

By Laurie O'Dell

Fitness Motivators in Highland managed to collect two heaping bags of toys just in time to give needy families in the Highland area a merry Christmas.

In conjunction with Highland Goodfellows, owner Donna Truss offered a free workout Friday, Dec. 13 to anyone 18 and older who donated a toy. Participants were asked to bring light hand weights. Babysitting was provided.

"We had a lot of regular customers," said Truss.

She said the most common items donated were games, dolls, stuffed

fellows at the end of the evening for distribution.

Fitness Motivators, located at Karen's School of Dance, 1440 S. Milford Road, also attracted a lot of children who came to see Santa Claus. Bob Gibson, organizer of Highland Goodfellows, played Santa.

Although Truss said the turnout for the event could have been better, she plans to try it again next year. In the past she has helped children's organizations in Detroit through her fitness classes, but this year she wanted to keep the project local.

Those who did participate in the workout were eligible for several prizes as part of a drawing.

percent off a massage; Kroger donated two bouquets of flowers and a turkey; One Hour Martinizing provided a \$5 gift certificate for free cleaning; MS Rentals donated a bouquet of balloons, while Snack Attack in Highland donated a gift certificate.

Truss said refreshments were also provided to those who participated, compliments of local businesses. Colasanti's Produce & Plants provided apples, Diehl's Cider Mill donated cider and Kroger provided 12 dozen cookies.

A demonstration by Karen's Studio of Dance rounded out the evening. A karate demonstration had





Fitness Motivators article  
posted March 19, 1991

EXHIBIT G

Truss gives the kids at Baker Elementary in Milford a run (and jump) for their money

GRAM

re than just attending  
erobics lessons;  
ng along supplies,  
high is motivation



By JULIE ANN BAUMKEL  
Of The Oakland Press

**D**onna Marie Truss is hooked on fitness. And now she's making a living at it. The former model and "Stars of Tomorrow" TV show dancer had humble beginnings — she began her business in a Highland Township bowling alley.

One year after its inception, more than 100 regular clients attend her "Fitness Motivators" classes.

Truss, 29, has been involved with fitness and aerobics most of her life, though.

"I was always known as a counselor. When I was modeling and dancing, the girls would always come to me when they needed help in losing weight — and every time I helped."

Truss says it's not a matter of any special technique but more an application of a positive mindset, which she has in abundance.

"Anyone can get in shape. It just takes motivation. That's the number one word."

Truss is a certified fitness instructor, accredited by the Aerobics and Fitness Association of America, and is working toward a degree in exercise science from Oakland Community College.

The former two-time Mrs. Michigan began teaching aerobics at the Detroit Community Center about 11 years ago. Her classes evolved over the years into the current format.

Her business began in earnest after her two children reached school age, and when, as she laughingly puts it, "My husband forced me into it."

It probably wasn't much of a stretch for him to conclude she might be adept at a fitness company because, Truss sincerely says, "I eat and sleep this stuff."

The Highland resident has a family approach to



# Screen stars shine for this family

## CABLE CONNECTION



MARY LINDA CALDERONE

There are the Sinatras, the Fondas and the Baldwins, but families in show biz don't happen only in Hollywood. Allow me to introduce Debbie Lim-Arena, Dr. Anthony Arena and their daughter Tatiana. Debbie's twin sister Donna Lim-Truss even gets into the act. That's right, it's "all in the family" right here on your community TV channel, INFO TV-12.

It all started when Debbie and hubby Anthony took our free TV production workshops. Debbie knew she had talent in the family and according to her, "community TV just seemed like a natural way to promote it." Getting the message out comes easily to Debbie. You see, Debbie designed apparel for ten years and had more than 200 fashion shows. "I was responsible for doing all of the promotion for my business," says Debbie.

Judging from the portfolio she showed me, it didn't take her long to become well known in the Fashion Industry and it's not taking her long to become well known in the TV business either.

She produces and directs three programs on INFO TV-12: one starring her daughter called "The Show Me Show with Tatiana," another starring her husband called "For the Health of It with Dr. Anthony Arena" and the third starring her twin sister Donna

Lim-Truss called "Fitness Motivators." The idea for daughter Tatiana's show came about when her parents were taking the TV production classes and couldn't find a babysitter "so we brought her along," says Debbie. "She looked so natural on the set."

The "Show Me Show with Tatiana" highlights guests of interest to children. She's had police Officer Randy Mince on with his police dog, her art teacher Stephanie Kessler from Gill Elementary, a line skating instructor Det. Dwayne Fox talking do when approached dangers of drugs. Her daughter Tatiana is the hit of her school "Show Me Show" Wednesdays at 5 p.m.

Debbie's belief in band led her to produce It with Dr. Anthony. He's interested in alternative therapy and home care want to miss this showings for times and days 553-7303, ext. 2251.

There was no stopping now. The TV bug had bitten Debbie. This time her twin sister was the target - Donna Lim-Truss. Donna teaches aerobics at the Huron Valley School District for continuing education. Why not get a show going for people of all ages and all fitness levels? Out of that was born, "Fitness Motivators." Donna leads with Debra Lawson and Debbie Darnell in the background.

The two girls demonstrate advanced and beginning moves to follow. So, there's no excuse - And, gals keep on the look out for the mystery man. He'll keep you focused! Tune into Fitness Motivators at 10 a.m. Thursday and 7 p.m. Tuesday. Watch all three shows and let Debbie know what you think.

Debbie says, "If anyone has any show ideas or a special guest they would like to see featured, please feel free to call me at (248) 477-5591."

**Fitness Motivators  
article dated  
January 1, 1998**

EXHIBIT H



Farmington Hills, MI 48335

248-471-1780

ally managed by Farmington Management

Fitness Motivators article  
dated June 10, 2004

June 10, 2004

# City kicks off Healthy Kids campaign



and their children along with Farmington Hills Mayor Vicki Barnett and State Representative Aldo Vagnozzi helped kick off the Healthy Kid's Club on Saturday with warm up exercises courtesy of the Fitness Motivators--a local group that teaches exercise including aerobic and weight training.

-Photo by DELLA CASSIA

DELLA CASSIA  
Staff Writer

Parents and dads gathered with their children on a sunny Saturday at Heritage Park to take part in a kick-off ceremony for the Healthy Kid's Club.

Attendance was low, club members were not disappointed.

The goal is that the word will spread about the club and more people will realize the importance of staying healthy.

Farmington Hills Mayor Vicki Barnett and State Representative Aldo

Vagnozzi helped launch the event.

"How can you have healthy kids if you don't have a healthy mayor?" quipped Barnett.

Vagnozzi touted the benefits of staying healthy, using himself as an example. The 77-year-old Vagnozzi walked to Lansing during his last campaign.

The club was recently formed as a result of the reports about obesity nationwide.

Farmington Hills Youth and Family Supervisor, Todd Lipa, and Recreation Supervisor, Brian

Farmer, came up with the idea for the club.

The premise is to get kids to adopt healthier habits, like eating better and exercising regularly, as well as to get parents to promote and encourage these habits at home.

In order to do that, kids are encouraged to keep track of their exercise activities in a Healthy Kid's Logbook, as well as log their steps using a pedometer. Kids received those items on Saturday along with water bottles and other helpful information.

This is the first phase of the pro-

gram, which will end in August with an awards ceremony and the largest kickball game in Michigan.

The second phase will begin in September and continue until December.

Organizers are hoping that the school district will come on board during that phase and join the club as a sponsor.

The third phase of the program will begin in January. At that time, organizers are planning to hold a conference that will feature workshops, seminars, and more.

ine tent gets | Hills' budget



online at [hometownlife.com](http://hometownlife.com)

Fitness Motivators article  
dated January 21, 2010



This Zumba group will perform at a pre-game show during the Jan. 23 Pistons game at The Palace.

## Zumba group to perform at Pistons game on Jan. 23

A Zumba pre-game performance will be featured on Jan. 23 at the Palace of Auburn Hills, when the Pistons meet the Portland Trail Blazers.

The Farmington Hills-based Fitness Motivators team and Zumba instructors

from around Michigan, and some of their students, will present a 4-minute program.

An exciting night of family fun is in store for supporters as they watch the Zumba Fitness performance. Members of the group will receive a free Pistons gift

with every ticket and they are invited to stay and shoot free throws on the court after the game. For more information, contact Debbie Lim at (248) 477-5591 or [lim761@gmail.com](mailto:lim761@gmail.com) or visit [www.debbielim.com](http://www.debbielim.com) or [www.fitnessmotivators.com](http://www.fitnessmotivators.com).

Thursday, January 21, 2010

## Kudos for 14 out project

Cubera... the... Round... Hills w... Cadillac... the Road... recognized... The project... intersection at... into a modern... Roundabout Proj... awards under the... project was paid for... road funds.

Cubera functioned as... with Cadillac Asphalt as... the design and construct... from the Road Commission... "When you're driving thro... about intersection, please not... contractor, and the road comm... of time and effort," said Cubera... safe, aesthetic, and innovative as... Cubera is responsible for engine...

## Beat winter blu

The City of Farmington Hills provides endless opportunities for the entire family to stay active during the winter months with programs such as dance, karate, cheerleading, soccer, swimming, and more. Plus, with online registration, it's easy to register from home for classes and special events. Just go to [www.fhgov.com](http://www.fhgov.com) and click on the Special Services Brochure for all the details.

Here is a sampling of upcoming events:

- P...
- D...
- C...
- F...
- K...



EXHIBIT J

**Donna Truss**

---

**From:** Abby Moskowitz [AMoskovitz@PatentCo.com]  
**Sent:** Thursday, February 18, 2010 12:29 PM  
**To:** pauladkins@fitnessmotivator.com  
**Cc:** fitdiva@msn.com; Becky Wilson  
**Subject:** RE: Your Allegations of Infringement Against Donna Truss and Fitness Motivators, LLC

Dear Mr. Adkins,

I strongly advise you to consult an attorney in this matter. You are absolutely wrong in your assessment of Ms. Truss's rights here. She has used the domain name, www.fitnessmotivators.ccm, and her website, since long before your first use or filing for your registration. It is obvious to me that you just want her domain name, but you are not going to get it. You will lose your registration over this battle. Ms. Truss is filing a Petition to Cancel your mark today.

Regards,

Abby C. Moskowitz  
Dobrusin & Thennisch, PC  
29 W. Lawrence St. Suite 210  
Pontiac, MI 48342  
Direct phone: (248) 202-3798  
Office phone: (248) 292-2920  
Office fax: (248) 292-2910  
Admitted in MI, CA, and VT  
Inactive in VT

**EXHIBIT K**  
**PAGE 1 OF 3**

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-----Original Message-----

From: pauladkins@fitnessmotivator.com [mailto:pauladkins@fitnessmotivator.com]  
Sent: Thu 2/18/2010 1:15 PM  
To: Abby Moskowitz  
Subject: RE: Your Allegations of Infringement Against Donna Truss and Fitness Motivators, LLC

Ms. Moskowitz after reviewing the document you have sent to me and the state laws of Michigan, this document gave Ms. Truss geographical rights to use the name in the Wayne County area of Michigan only. In addition, Ms. Truss has never filed to state or federally trademark this name which clearly illustrates she has no intentions on using this name outside of the Wayne County area of Michigan. Therefore I have two proposals I am willing to offer Ms. Truss;

1. I will uplift the suspension for 90 days to allow Ms. Truss time to change her company name and market the new name to her following. At the end of the 90 day period, the suspension will be placed back on the domain name.

2. I will allow Ms. Truss her geographical rights to use the name within the state of Michigan, however, due to the fact that the internet attracts national attention and is not subject to just one state, I will not be able to uplift the suspension on the domain name.

2/18/2010



----- Original Message -----

Subject: RE: Your Allegations of Infringement Against Donna Truss and Fitness Motivators, LLC  
From: "Abby Moskowitz" <AMoskovitz@PatentCo.com>  
Date: Tue, February 16, 2010 6:44 pm  
To: <pauladkins@fitnessmotivator.com>  
Cc: <fitdiva@msn.com>, "Becky Wilson" <BWilson@PatentCo.com>

Dear Mr. Adkins,

I sent you proof of Ms. Truss's prior use yesterday. While we attempt to work out a resolution of this dispute, it is imperative that Ms. Truss's website be restored. She almost lost 2 referrals today, and is likely losing others. The status quo must be restored immediately for Mr. Truss to consider a resolution without filing a petition to cancel your mark. Please withdraw your trademark violation notice from Go Daddy immediately.

Thank you for your prompt attention to this matter.

Regards,

Abby C. Moskowitz  
Dobrusin & Thennisch, PC  
29 W. Lawrence St. Suite 210  
Pontiac, MI 48342  
Direct phone: (248) 202-3798  
Office phone: (248) 292-2920  
Office fax: (248) 292-2910  
Admitted in MI, CA, and VT  
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**EXHIBIT K**  
**PAGE 2 OF 3**

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From: pauladkins@fitnessmotivator.com [<mailto:pauladkins@fitnessmotivator.com>]  
Sent: Mon 2/15/2010 12:10 PM  
To: Abby Moskowitz  
Subject: RE: Your Allegations of Infringement Against Donna Truss and Fitness Motivators, LLC

Ms. Moskowitz, I am more than willing to work something out with Ms. Truss. She even offered me a proposal on 2-10-10 but the proposal was in total benefit to her and none to me. Now that she has attained you to represent her, I have a proposal I am willing to offer her but I first need to see proff of the longevity of her using this name in commerce. Once I receive this, I will submit my proposal to you and see if we can come to some sort of agreement. Thank you for your time.

----- Original Message -----

Subject: Your Allegations of Infringement Against Donna Truss and Fitness Motivators, LLC  
From: "Abby Moskowitz" <AMoskovitz@PatentCo.com>  
Date: Fri, February 12, 2010 2:04 pm  
To: <pauladkins@fitnessmotivator.com>

Cc: <fitdiva@msn.com>, "Becky Wilson" <BWilson@PatentCo.com>

Dear Mr. Adkins,

Please be advised that Ms. Truss, dba Fitness Motivators, has retained me to represent her in connection with your allegations of trademark infringement based on your federal registration of the Fitness Motivators mark with the United States Trademark Office. Your registration indicates that your first use of the Fitness Motivators mark was in 2008. In contrast, Ms. Truss has been using the Fitness Motivators mark since 1999 - long before your first use or federal registration. As such, Mr. Truss has priority to the mark, and may therefore cancel your federal registration. Notwithstanding her right to cancel, she also has every right to continue using it in the geographic area in which she used it prior to your registration (the State of Michigan). Finally, since she registered her domain name and has used her website in good faith since long before your first use of the mark, your registration does not prohibit her from continuing to use it in the same manner.

Please withdraw your complaint with Go Daddy and provide a written response stating that you will not take any action against Ms. Truss based on her use of the Fitness Motivators mark in the State of Michigan or in connection with her website at [www.fitnessmotivators.com](http://www.fitnessmotivators.com) <<http://www.fitnessmotivators.com>> or I will advise her to file a Petition to Cancel your registration next week. If you need time to consult with an attorney regarding your rights, please let me know how much time you need. If you want to discuss this further, please also feel free to call me at the direct number below. I look forward to promptly resolving this matter with you.

Regards,

Abby C. Moskovitz  
Dobrusin & Thennisch, PC  
29 W. Lawrence St. Suite 210  
Pontiac, MI 48342  
Direct phone: (248) 202-3798  
Office phone: (248) 292-2920  
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**EXHIBIT K**  
**PAGE 3 OF 3**

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**Donna Truss**

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**From:** Abby Moskowitz [AMoskovitz@PatentCo.com]  
**Sent:** Tuesday, February 16, 2010 8:12 PM  
**To:** trademarkclaims@godaddy.com  
**Cc:** fitdiva@msn.com; pauladkins@fitnessmotivator.com; Becky Wilson  
**Subject:** Trademark ID 372336  
**Importance:** High  
**Attachments:** DonnaTruss-FitnessMotivators - Early Use.pdf; www.fitnessmotivators.com.pdf

Dear Go Daddy,

Please be advised that I represent Ms. Donna Truss in connection with the trademark infringement claims made by Mr. Paul Adkins. On Monday, February 15, 2010, Go Daddy disabled Ms. Truss's website based on the trademark infringement allegations made by Mr. Adkins. Mr. Adkins' federal trademark registration cites a first use date in 2008 -- long after Ms. Truss began using this mark. I have advised Mr. Adkins that Ms. Truss has been lawfully using the Fitness Motivators mark since as early as 1989 and have provided proof of this early use (attached). She has also been using her website at [www.Fitnessmotivators.com](http://www.Fitnessmotivators.com) with the Fitness Motivators mark since long before 2008 (see attached). Go Daddy's disabling of Ms. Truss's website is unjustified and is interfering with her business. As I am sure you are aware, Mr. Adkins' federal registration cannot interfere with Ms. Truss's prior, lawful use of this mark in commerce. Please reactivate Ms. Truss's website immediately.

Thank you for your prompt attention to this matter.

Regards,  
Abby C. Moskowitz  
Dobrusin & Thennisch, PC  
29 W. Lawrence St. Suite 210  
Pontiac, MI 48342  
Direct phone: (248) 202-3798  
Office phone: (248) 292-2920  
Office fax: (248) 292-2910  
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**EXHIBIT L**



# The Fitness & Motivators of Michigan

Home Company Info Instructors Schedule Fitness Tips Events Testimonials Contact Us  
 youTUBE Bloopers eNews Archives Personal Training Detailed Calendar Debbie's Website Logowear eStore SOS Web Geeks Useful Links

Welcome to Fitness Motivators! Our Goal is to Help You Achieve Your Fitness Goals!

Register for Fitness Motivators eNews

Receive up-to-date info on our classes, cable shows, fit tips, and other important news

Recommend Your Friends to Fitness Motivators!  
[Click Here](#)

## CURRENT NEWS

Check Out Our **DETROIT PISTONS** **PREGAME PERFORMANCE!**

[WINTER eNEWS](#)

[REGISTER FOR CLASSES](#)



EXCLUSIVE PARTNERSHIP WITH WDIV DETROIT **GETTING FIT & MOTIVATED**

Time to get Fit With Four. Follow along as Fitness Motivators take WDIV through the process of getting fit.

**WE DELIVER SERIOUS RESULTS - #1 PROGRAM IN OUR AREA!**

FM Promo Video 2010

★★★★★



"How fitting that you are called "Fitness Motivators" You could drop the fitness and counsel people on making their passion a career..." [more](#)



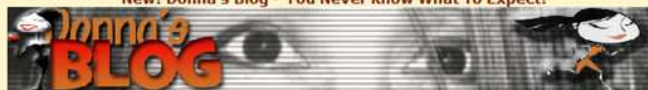
Picture: (see, Anne Marie, and Christine & Debbie)

# EXHIBIT M

Fitness Motivators takes pride in offering a fitness program that caters to **ALL FITNESS LEVELS!** Fitness Motivators classes are team taught by certified trainers at various levels at the same time, so **Beginners will NOT BE Intimidated, yet challenging enough for the advanced!** Our classes includes aerobics, cardio boxing, Z-Box, Zumba, complete body toning, and customized fitness programs with proven results in weight loss and defined, toned muscles. Fitness Motivators **popular fitness program in Michigan** is due to our clients' dedication and our passion to help others! **We will continue to provide quality fitness classes and a rewarding program for your health and fitness goals.**



New! Donna's Blog - You Never Know What To Expect!



**OVER 22 YEARS OF QUALITY FITNESS PROGRAMS!**



youTUBE Bloopers  
 eNews Archives  
 Personal Training  
 Detailed Calendar  
 Debbie's Website  
 Logowear eStore  
 SOS Web Geeks  
 Useful Links

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[Want To Be An Instructor?](#)

Receive **ONE FREE** 60-min Session!

[See Clients In Action](#)

[ZUMBA® with Fitness Motivators!](#)

**Featured In:**  
 Local Cable Shows  
 FOX 2 News  
 WXYZ Channel 7  
 WDIV Click on Detroit  
 Milford Times  
 Novi News  
 MTV  
 USA Today  
 The Jewish News  
 Gulf Times  
 Zumba News  
 Ohio News  
 You TUBE  
 Democrat Herald  
 St Augustine News  
 Gazette Times  
 Charlotte Observer  
 Ris Media  
 The Hour News  
 Red Orbit  
 and much more



#### **Fitness Motivators Featured In:**

Local Cable Shows	FOX 2 News
WXYZ Channel 7	Detroit Pistons
WDIV Click on Detroit	Detroit Free Press
Observer Eccentric	Oakland Press
Oakland Post	Milford Times
Novi News	MTV
USA Today	The Jewish News
Gulf Times	ContracCosta Times
GM Today	Zumba News
Ohio News	You TUBE
Democrat Herald	St Augustine News
Gazette Times	Charlotte Observer
Ris Media	The Hour News
Red Orbit	and much more

#### **About Fitness Motivators –**

**Fitness Motivators** program was originated on April 4, 1988, in the Highland/Milford Michigan area by Donna. A few years later her twin-sister Debbie came on board and helped make **Fitness Motivators** a successful, proven-results company. **Fitness Motivators** has trained over thousands of clients by offering specialized programs throughout the Detroit suburban areas for adults and children. **Fitness Motivators** can also be seen on your local cable stations (their own award-winning shows produced by Debbie), special fundraiser events, and previously, a MTV Reality Show.

Although our competitors said it would not work - **Fitness Motivators** was the first to design an aerobics and weight training combination exercise program in the area. The result is a **super effective workout** that gives three times the fat loss than aerobics alone. The Fitness Motivators of MI program simultaneously reverses both the muscle loss and the fat gain of aging.

We pride ourselves in offering a program that caters to **ALL FITNESS LEVELS** - classes are team-taught at various levels at the same time, so **Beginners will NOT BE Intimidated, yet challenging enough for the advanced!**

**Free-style so there are no boring routines to memorize.** Any client can customize this program to meet their personal needs. Since we team-teach most of our classes, **you will find that you do not have to do all "High Impact" aerobics to see fast results.** Experience Quick, Visible Results While Getting Educated On Fitness! **These Are NOT Your Ordinary Fitness Classes!** Instructors Are FUN!